

EFFECTIVE
12/5/12

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

174 NAC 1

TITLE 174 VITAL RECORDS

CHAPTER 1 COMPILATION OF INFORMATION SUBMITTED ON ABORTION REPORTING
AND CONSENT FORMS

1-001. CONTENT: Compilation of the information submitted on the abortion reporting and consent forms to the Department of Health and Human Services will contain items of information based upon those required to be contained in the abortion reporting and consent forms pursuant to the provisions of Neb. Rev. Stat. §§ 28-343, 28-3,107, and 71-6909.

1-002. PERIOD OF PUBLICATION: The Department of Health and Human Services will prepare and have published compilations of the information submitted on the abortion reporting and consent forms to the Department covering the period beginning January 1 and ending December 31, inclusive, for each year. Such compilations will be published and made available to the public no later than June 30 of the year subsequent to that covered in the compilations. The Department may also prepare and have published compilations covering a lesser period of time and containing the same or a lesser number of the items of information required in the abortion reporting and consent forms. Upon publication such compilations will also be available to the public.

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12/9/08

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

174 NAC 3

TITLE 174 VITAL RECORDS

CHAPTER 3 VIEWING AND RELEASE OF VITAL RECORDS

3-001 SCOPE: These regulations govern the access to and release of birth, death, marriage, and dissolution of marriage certificates under Neb. Rev. Stat. § 71-612.

3-002 DEFINITIONS

Applicant means a person requesting a certified copy or a person seeking to view a certificate.

Application means a request for a record in writing containing information required by the Department.

Certificate means the form used for registration or reporting to the Department the event of birth, death, marriage, or dissolution of marriage as approved by state law or regulation. For purposes of these regulations, certificate includes an abstract of marriage as provided in Neb. Rev. Stat. § 71-601.01 and a certificate of birth resulting in stillbirth as provided in Neb. Rev. Stat. § 71-606. Certificate does not include that portion of the certificate entitled "for health data and statistical research," "information for statistical purposes only" or for "medical or health information only" or similar language except as specifically provided in these regulations. The portion of the certificate designated for "health data and statistical research" is confidential and released only to the United States Public Health Service or its successor, government health agencies, or a researcher as approved by the Department in these rules. The Department may publish analyses of any information received on the forms for scientific and public health purposes in such a manner as to assure that the identity of any individual cannot be ascertained.

Certified copy means a certificate certified by the Department as provided by law.

Department means the Department of Health and Human Services.

Family means the parent, spouse, or child of a registrant. Family does not include the biological parent of an adopted child.

Legal representative means the registrant's attorney, legal guardian or conservator, custodian, personal representative, executor, or executrix of the registrant's estate or other person showing lawful authority to act on behalf of the registrant.

Proof of identity means documentation issued by a federal, state, or local political subdivision, corporation, or other entity, that contains a photograph of the applicant and facts identifying the applicant or other documentary evidence establishing identity.

Proof of qualification means written documentation establishing the credentials or authority of the applicant or facts required by these regulations to demonstrate a proper purpose.

Registrant means the individual who is the subject of the vital record.

Research means a systematic statistical study, conforming to or in accordance with generally accepted medical or scientific standards or principles, designed to develop or contribute to medical or scientific knowledge, and which does not identify the persons in the study.

3-003 VIEWING OR OBTAINING A CERTIFIED COPY OF A RECORD

3-003.01 Birth, death, marriage, and dissolution of marriage certificates are public records unless otherwise provided by law or court order and as such, the Department allows said records to be viewed during normal office hours. The applicant must make a request to view the vital record and provide the applicant's name and address.

3-003.02 An applicant wishing to view a vital record will be provided at the statutory fee a copy of the certificate which will be stamped "NOT A LEGAL DOCUMENT - FOR REVIEW ONLY." This copy will not contain any information contained on that portion of the vital record titled "medical or health information" or "information for statistical purposes only" or similar statistical information not registering the vital event itself.

3-003.03 Copies of certificates provided to an applicant for review may not be removed from the area provided for viewing. These copies must not be photocopied or reproduced by the applicant. Such copies must be returned to the Department before the applicant leaves the viewing area. An applicant may make and keep notes on the contents of a record.

3-003.04 The Department will provide no copies of a vital record other than certified copies to an applicant demonstrating a proper purpose except death certificates for scientific research pursuant to Neb. Rev. Stat. § 71-612(5).

3-003.05 The Department will supply for any proper purpose as defined in 174 NAC 3-004, a certified copy of a birth, death, marriage, or dissolution of marriage record, except as otherwise provided by law or court order. The burden is on the applicant to prove to the Department that a valid proper purpose exists. To obtain a certified copy, an applicant must:

3-003.05A Provide sufficient information to enable the Department to locate and identify each certified copy requested.

3-003.05B Pay the statutory fees for each certified copy or each search for a certified copy, whether or not the record is found, unless exempt from payment by law.

3-003.05C Provide name and address, telephone number, and proof of identity. More than one document showing proof of identity may be required. If the applicant is involved in medical, scientific, law enforcement, government, genealogical, or historical research, the applicant must provide the name of the entity, if any, which the applicant represents; the name of the principal investigator if other than the applicant; qualifications of the applicant if appropriate; the location where the research will take place; and the means by which the research will take place.

3-003.05D Describe the purpose for each certified copy requested and provide satisfactory proof to the Department that the request is for a proper purpose as defined below.

3-004 PROPER PURPOSE: Proper purpose means and includes the following circumstances:

3-004.01 Personal Use: Personal use by a registrant of his or her own certificate of birth, certificate of marriage, or certificate of dissolution of marriage, upon proof of identity.

3-004.02 Legal Use: Use by a registrant, the registrant's family, or the registrant's legal representative of a certificate for a legal purpose that requires documentation of a vital event to obtain a legal right or privilege upon proof of identity. A legal purpose includes, but is not limited to the following:

3-004.02A To establish the fact of death or identity in a probate or estate action.

3-004.02B To transfer title to a motor vehicle or other personal or real property.

3-004.02C To obtain government documents such as a driver's license, identification card, social security, passports, or other state or federal licenses, benefits, or certificates.

3-004.02D To obtain admission to school.

3-004.02E To establish a legal relationship with another person or property right such as an inheritance, insurance, or dependency benefit.

3-004.02F To provide a copy or copies of a certificate of birth resulting in stillbirth to the parent(s) as listed on the fetal death record.

3-004.03 Consensual Use: Use upon submission by the applicant of the written consent of the registrant to obtain the certificate. Such written consent will be retained by the Department and made a part of the application.

3-004.04 Scientific or Medical Use: Use upon proof of identity and qualifications by a researcher employed by a research organization, university, institution, or government agency, who is conducting scientific, medical, or public health research of a certificate, so long as there is no publication or disclosure of the name or names or facts that would lead to the identity of any person included in the certificate.

3-004.05 Law Enforcement Use: Use of a certificate upon proof of identity and employment with an agency of the federal government, state government, or political subdivision of the state, charged by law with the duty of detecting or prosecuting crime or enforcing child support or establishing paternity.

3-004.06 Genealogical Use: Use of a certificate of birth and death by a person engaged in genealogical research:

3-004.06A Upon proof of identity of the applicant when the person whose certificate is requested has been deceased for 50 or more years; or

3-004.06B Upon proof of identity of the applicant and written consent of the registrant or a member of registrant's family when the registrant is alive or has been deceased less than 50 years.

3-004.06C A certificate of birth resulting in stillbirth is available only to the parent(s) as listed on the fetal death record. A certificate of birth resulting in stillbirth is not open to the public for genealogical use.

3-004.07 Historical Research: Use by a historical researcher of a certificate upon proof of identity and proof of qualification, including but not limited to documentation that:

3-004.07A Applicant possesses academic credentials as a historian from, or is currently majoring in and pursuing a course of study in history in an accredited university, college, or nationally-recognized organization.

3-004.07B Applicant is engaged in a historical research project.

3-004.07C Each certificate requested is relevant to the project.

3-004.08 Governmental Use: Use of a certificate upon proof of identity and employment by federal, state, or political subdivision government agencies for statistical purposes, disease control or prevention, health-related record keeping, and for record keeping required by any state or federal agency in the course of its official duties.

3-004.09 Media Use: Use of a certificate upon proof of identity and employment with a newspaper, magazine, radio, or television station for the purpose of reporting news to the public.

3-005 PROCESSING REQUESTS

3-005.01 Certified Copies: The Department will review the application and documentation provided by the applicant to determine whether the criteria for proper purpose are met. In reaching a decision, the Department may conduct independent verification of some or all of the information or proof supplied by an applicant. The Department will deny an application when:

3-005.01A The reason for which the record is sought is not a proper purpose as defined in 174 NAC 3-004.

3-005.01B An applicant cannot show proof of identity.

3-005.01C Information or documentation provided by the applicant is incomplete.

3-005.01D The certificate or record requested is confidential, sealed, or protected by statute or court order.

3-005.01E Information or documentation provided by the applicant does not provide the proof necessary for release for a proper purpose.

3-005.01F There is reason to believe that an applicant has provided inaccurate or false information.

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3-005.02 Access to Certificates: The Department will not release a certificate or particular information from a certificate or other record for review when a statute makes such information confidential. In these cases, the applicant will be provided a written denial. Any person denied a copy or a portion of a copy may seek review of the Department denial, or denial of particular information, under any of the methods described in Neb. Rev. Stat. § 84-712.03.

3-005.03 Mail Request: Requests by mail for certified copies are permitted if they meet the requirements set out in this chapter. Supplemental information may be accepted over the phone except when documentation is required and a record of such will be made by the Department.

3-005.04 Denial: Any denial of access to or a certified copy of any record will be made in writing by the Department to the applicant. Such denial will clearly set out the reasons for the denial.

TITLE 174 VITAL RECORDS

CHAPTER 4 REGULATIONS GOVERNING AMENDMENT OF MARRIAGE AND DISSOLUTION
OF MARRIAGE RECORDS

4-001 SCOPE OF REGULATIONS: A marriage or dissolution of marriage record filed with the Department of Health and Human Services Finance and Support (hereafter Department) may be amended only in accordance with the provisions of these regulations. For purposes of these regulations, record of marriage includes an abstract of marriage as provided in Neb. Rev. Stat. § 71-601.01. Amendment of incomplete or erroneous information on records of marriage or dissolution may be made upon presentation of the same kinds and numbers of documents required to amend birth and death certificates. A record of marriage or dissolution of marriage amended under these regulations will have a properly dated reference placed on the face of the record and will state that it is amended.

4-002 APPLICATION FOR AMENDMENT: Application for amendment of a marriage record must be made by the husband, wife, or by the county court required to file the record with the Department. Application for amendment of a dissolution of marriage record must be made by a plaintiff or by the clerk of the district court required to file the record with the Department.

4-003 AMENDMENT OF OBVIOUS ERRORS: Amendment of obvious errors, transposition of letters in words of common knowledge, or omissions on marriage or dissolution of marriage records may be made by the Department within the first year after the date of the event, either upon its own observation, upon query, or upon request of a person with a direct and tangible interest in the record. When such additions or minor amendments are made by the Department, a notation as to the source of the information, together with the date the change was made and the initials of the authorized agent making the change, will be made on the reverse side of the record in such a way as not to become a part of the record. The record will not be marked amended.

Amendment of obvious errors to an electronically generated certificate will be accomplished electronically by completing the item in any case where the item was left blank on the certificate or by replacing the initial information with the corrected information. With all amendments of obvious errors, the electronic registration system will maintain an internal record of the actual information completed or replaced and the name of the individual who made the amendment. The face of the certificate will not note the item number and item corrected. The record will not be marked amended.

4-004 EVIDENCE REQUIRED: All other amendments to a marriage or dissolution of marriage record made during the first year unless otherwise provided in these regulations must be supported by (a) an affidavit setting forth information to identify the record, the incorrect data as it is placed on the record, and the correct data as it should appear; and (b) one item of documentary evidence supporting the amendment. Records amended by this procedure will be marked amended.

4-005 APPLICATION FOR AMENDMENT MADE AFTER A YEAR: Application for an amendment to a marriage or dissolution of marriage record made one year or more after the event, unless otherwise provided in these regulations, must be supported by (a) an affidavit setting forth information to identify the record, the incorrect data as it is listed on the record, and the correct data as it should appear; and (b) two or more items of documentary evidence which support the alleged facts and which were established at least five years prior to the date of application for amendment or within seven years of the date of the event.

4-006 EVALUATION OF EVIDENCE: The Department will evaluate all evidence submitted for an amendment to a marriage or dissolution of marriage record and when it finds reason to question its validity or adequacy, it may reject the amendment and will advise the applicant of the reasons for this action.

4-007 REQUIREMENTS FOR ADDITIONAL AMENDMENT: When an entry on a marriage or dissolution of marriage record has been amended, that entry will not be amended again unless it can be shown that the first amendment was made through mistake.

4-008 METHOD OF AMENDMENT: Marriage or dissolution of marriage records will be amended as provided in Chapter 10 of this Title, governing the method of amending certificates and reports.

4-009 FEES: The fees charged by the Department for the making of amendments to marriage or dissolution of marriage records will be identical to those charged for the making of amendments to birth or death records.

TITLE 174 VITAL RECORDS

CHAPTER 6 RELEASE OF MEDICAL HISTORY, ORIGINAL BIRTH CERTIFICATE, AND
RELATIVE'S INFORMATION FOLLOWING THE ADOPTION OF A NEBRASKA
BORN PERSON.

6-001 SCOPE: These regulations apply to:

1. The release of information to the person adopted or for whom relinquishment or consent for adoption was given prior to September 1, 1988, as defined in Neb. Rev. Stat. §§ 43-120 to 43-146;
2. The release of information to the person adopted or for whom relinquishment or consent for adopted was given on or after September 1, 1988, as defined in Neb. Rev. Stat. §§ 43-107, 43-119, 43-129, and 71-626.01; and
3. The release of information to the heir of an adopted person, as defined in Neb. Rev. Stat. § 43-146.17.

Sections 6-003, 6-005 and 6-006 of this chapter do not apply to persons subject to the Nebraska Indian Child Welfare Act.

6-002 DEFINITIONS

Biological family includes, but is not limited to, siblings, parents, grandparents, aunts, and uncles.

Child placing agency means an agency licensed by the Nebraska Department of Health and Human Services (DHHS) Division of Public Health as provided in Neb. Rev. Stat. §§ 71-1901 to 71-1906.01.

Completed written request means that an access form has been completed with all required information and properly signed by the requester and submitted with the statutory fee and any required documentation.

Court means a court of competent jurisdiction which granted the adoption.

Department means the Nebraska Department of Health and Human Services (DHHS) Division of Public Health.

Heir means a direct biological descendent of an adopted person.

Putative father means the presumed father of a child.

Relative means the biological parents or biological siblings of the adopted person.

6-003 REQUIREMENTS FOR ACCESS TO RECORDS ABOUT ADOPTED PERSONS

6-003.01 Procedures for access to information about persons adopted or for whom a relinquishment or consent for adoption was given prior to September 1, 1988.

6-003.01A A person adopted or for whom a relinquishment or consent for adoption was given prior to September 1, 1988 requesting access to names of relatives or his or her original certificate of birth must:

1. Have been born in the State of Nebraska;
2. Have attained at least the age of 25; and
3. Submit to the Department:
 - a. A written request on a form provided by the Department, a copy of which is Attachment A, incorporated in these regulations by this reference. Only requests which are complete will be considered;
 - b. Evidence of having attained at least the age of 25 years;
 - c. Evidence of the dates of adoption or placement for adoption;
 - d. Evidence of having been born in the State of Nebraska; and
 - e. The required search fee.

6-003.01B The Department, upon receipt of a complete written request, will determine if a consent form has been signed and filed by any relative of the adopted person and whether an unrevoked nonconsent form is on file with the Department from the biological parent or parents or from the adoptive parent or parents. Copies of relative consent forms are Attachments B and C, copies of biological and adoptive parent nonconsent forms are Attachments D and E, and a copy of the revocation of consent form is Attachment F, all incorporated in these regulations by this reference.

6-003.01C The Department will disclose the information on a consent form when:

1. A consent form has been signed and filed and is unrevoked, and
2. No nonconsent form has been filed by an adoptive parent or parents, or by a biological parent or parents.

6-003.01D The Department will disclose the information listed on a consent form and provide a copy of the original birth certificate to an adopted person when:

1. A consent form has been signed and filed by the biological parents or by the biological mother of a child born out-of-wedlock and is unrevoked, and
2. No nonconsent form has been filed by an adoptive parent or parents, or by a biological parent or parents.

6-003.01E When no consent forms have been filed or if the consent form has been revoked and no nonconsent form has been filed by the biological parent or parents or the adoptive parent or parents, the Department will disclose the following information to the adopted person:

1. The name and address of the court which issued the adoption decree;

2. The name and address of the child placing agency, if any, involved in the adoption; and
3. The fact that a child placing agency may assist the adopted person in searching for relatives.

6-003.01F When the Department has information indicating that both biological parents of the adopted person are deceased, or, if only one biological parent is known and the information indicates that parent is deceased and, no nonconsent form has been filed by an adoptive parent or a biological parent, the Department will disclose to the adopted person all information on the adopted person's original birth certificate regarding such deceased parent or parents.

6-003.01G When a nonconsent form has been filed by the biological parent or parents, the Department will not disclose any information on the original birth certificate of the adopted person to any person until after the death of the biological parent filing the nonconsent form and the death of the spouse of the biological parent without a court order.

6-003.01H When a nonconsent form has been filed by the adoptive parent or parents, the Department will not disclose any information on the original birth certificate of the adopted person prior to the death of the adoptive parent and his/her spouse, if he or she signed the form, without a court order.

6-003.02 Procedures for access to information for persons for whom a relinquishment or consent for adoption was given on or after September 1, 1988.

6-003.02A A person for whom a relinquishment or consent for adoption was given on or after September 1, 1988 requesting access to the names of relatives or to his or her original birth certificate must:

1. Have been born in the State of Nebraska;
2. Have attained at least the age of 21 years; and
3. Submit to the Department:
 - a. A verified complete access form provided by the Department, a copy of which is Attachment G, incorporated in these regulations by this reference. Only requests which are complete will be considered;
 - b. Evidence of having attained the age of 21 years;
 - c. Evidence of having been born in the State of Nebraska; and
 - d. The required search fee.

6-003.02B The Department, upon receipt of a complete written request, will determine if there is on file by a biological parent of the adopted person, an unrevoked nonconsent form, a copy of which is Attachment H, incorporated in these regulations by this reference.

6-003.02B1 If no nonconsent form has been filed by a biological parent of the adopted person, the Department will release to the adopted person the following information:

1. The name and address of the court which issued the adoption decree;
2. The name and address of the child placing agency, if any, involved in the adoption;
3. The fact that a child placing agency or the DHHS Division of Children and Family Services may assist the adopted person in searching for relatives;
4. A copy of the adopted person's original birth certificate; and
5. A copy of the adopted person's medical history and any medical records on file with the Department.

6-003.02B2 If an unrevoked nonconsent form has been filed by a biological parent of the adopted person, the Department will release to the adopted person a copy of the adopted person's medical history. The medical history will not include the names of the biological parents or relatives of the adopted person or any other identifying information. The Department will not disclose to the adopted person any information contained on the original birth certificate or any other information to any person prior to the death of the biological parent without a court order.

6-003.03 Disclosure of Information to a Child Placing Agency or the DHHS Division of Children and Family Services.

6-003.03A If an adopted person of at least 21 years of age for whom relinquishment or consent to adoption was given on or after September 1, 1988 is unable to obtain information about the adopted person's relatives and there is no unrevoked nonconsent form from a biological parent on file with the Department, the Department will:

6-003.03A1 Verify for the child placing agency or the DHHS Division of Children and Family Services, that no unrevoked nonconsent form is on file.

6-003.03A2 Upon receipt of a written request and the required search fee from the child placing agency or the DHHS Division of Children and Family Services, release to the child placing agency or the DHHS Division of Children and Family Services any information available from Department records regarding the names and locations of the relatives of the adopted person. The child placing agency or the DHHS Division of Children and Family Services must keep such information confidential.

6-003.03A2a When any information regarding relatives of an adopted person is provided by the Department to a child placing agency or the DHHS Division of Children and Family Services, the Department must record in the records of the adopted person the following:

1. The nature of the information disclosed.
2. The name and employer of the person to whom the information was disclosed; and
3. The date of the disclosure.

6-003.03B The DHHS Division of Children and Family Services or child placing agency which receives information from the Department as provided by these regulations must file a written report with the Department within nine months of receipt of the information. The report must include the following information:

6-003.03B1 Whether a relative of the adopted person was located and whether a contact between the relative and the adopted person has been arranged or has occurred; or

6-003.03B2 If no relative has been located, the efforts made to identify and locate relatives of the adopted person.

6-003.04 Access of an adopted person's heir to original adoptive information upon proof of death of the adopted person, the adopted person's biological parent(s), and the spouse(s) of the biological parent(s), or when at least 100 years have passed since the birth of the adopted person, as provided in Neb. Rev. Stat. § 43-146.17.

6-003.04A After July 20, 2002, an heir 21 years of age or older of an adopted person may request access to the adopted person's original adoptive information by providing to the Department:

1. A completed Request for Access to Adoptive Birth Information by Heir, a copy of which is Attachment I, incorporated in these regulations by this reference;
2. Evidence that s/he is an heir of the adopted person;
3. Evidence that s/he is 21 years of age or older;
4. Evidence that the adopted person is deceased;
5. Evidence that the adopted person's biological parent(s) is/are deceased;
6. Evidence that the spouse(s) of the biological parent(s) is/are deceased; and
7. The required fee as established in 174 NAC 6-005.03.

6-003.04A1 Upon receipt of the required fee, the information in items 1-6 above, and verification of the information as valid, the Department will release to the heir of the adopted person all information on file, including but not limited to:

1. The name and address of the court that issued the Adoption Decree;
2. The name and address of the child placing agency, if an agency was involved;
3. A copy of the adopted person's original birth certificate;
4. A copy of the adopted person's medical history and any medical records on file with the Department; and
5. Any vital records documents identified during the research to link documents.

6-003.04B After July 20, 2002, an heir 21 years of age or older of an adopted person may request access to the adopted person's original adoptive information if at least 100 years has passed since the adopted person's birth by providing to the Department:

1. Evidence that s/he is an heir of the adopted person;
2. Evidence that s/he is 21 years of age or older; and

3. The required fee as established in 174 NAC 6-006.

6-003.04B1 Upon receipt of the required fee, the information in items 1 and 2 above, and verification of the information as valid, the Department will release to the heir of the adopted person all information on file, including but not limited to:

1. The name and address of the court that issued the Adoption Decree;
2. The name and address of the child placing agency, if an agency was involved;
3. A copy of the adopted person's original birth certificate; and
4. A copy of the adopted person's medical history and any medical records on file with the Department.

6-004 MEDICAL HISTORY: A complete medical history must be filed for every person adopted or for whom relinquishment or consent for adoption was given on or after September 1, 1988. The medical history must include, if available, a medical history of the biological mother and father and their biological families, unless the child is foreign born or abandoned. The medical history of the biological parents must include the race, ethnicity, nationality, Indian tribe when applicable and in compliance with the Nebraska Indian Child Welfare Act, or other cultural history, if available. The medical history must be submitted on a form provided by the Department, copies of which are Attachments J and K, incorporated in these regulations by this reference.

6-005 SCHEDULE OF FEES

6-005.01 For each search of the files, a fee as provided in Neb. Rev. Stat. § 71-612.

6-005.02 For each certified copy of a birth certificate, an additional fee of \$1.

6-005.03 For each request by an heir of an adopted person for original birth information on the adopted person, as provided in 174 NAC 6-004, a fee of \$100. This fee includes review of the request, correspondence with the heir, and up to four hours of research to link documents. If more than four hours of research time is required, a fee of \$25 for each additional hour or partial hour will be charged. The fee may be waived by the Department if the requesting party shows that the fee would work an undue financial hardship on the party.

6-006 REVOCATION OF NONCONSENT FORM

6-006.01 A revocation of nonconsent by biological parent(s) may be filed at the option of the biological parent(s). The filing of this form will allow the release of information to the adopted person. Copies of the forms to be used are Attachments L and M, incorporated in these regulations by this reference.

TITLE 174 VITAL RECORDS

CHAPTER 9 ORIGINAL AND DELAYED BIRTH CERTIFICATES

9-001 SCOPE: These regulations apply to the registration of the birth of newborn infants (as provided in Neb. Rev. Stat. § 71-604), for those persons who were born in Nebraska but whose births were not registered (as provided in Neb. Rev. Stat. §§ 71-617.01 to 71-617.15), and for amending such records (as provided in Neb. Rev. Stat. §§ 71-634 to 71-644).

9-002 DEFINITIONS

Applicant means a person requesting a certified copy of a vital record or a person seeking to view a record or the individual who is the subject of the vital record.

Certificate means the record of a vital event.

Certificate of Live Birth means the standard form for registering live births occurring in this state as prescribed by the Department, a copy of which is attached to these regulations as Attachment A and incorporated by this reference.

Department means the Nebraska Department of Health and Human Services Finance and Support.

Director means the Director of Finance and Support.

Registration means the filing of the Standard Certificate of Live Birth for a newborn infant with the Department or with a city-county or county health department.

9-003 REQUIREMENTS FOR REGISTRATION OF LIVE BIRTHS: A Certificate of Live Birth must be filed for each live birth which occurs in Nebraska.

9-003.01 Such certificate must be filed with the Department within five business days after the birth or if the birth occurred in Douglas or Lancaster County, it must be filed with the respective county health department. The county health department must file such certificates with the Department within ten days of the date of birth.

9-003.02 When a birth occurs in an institution or en route thereto, the person in charge of the institution or his or her authorized designee must obtain the personal data, prepare the certificate which must include the name, title, and address of the attendant, certify that the child was born alive at the place and time and on the date stated either by standard procedure or by an approved electronic process, and file the certificate. The physician or other person in attendance must provide the medical information required for the certificate within 72 hours after the birth.

9-003.03 When a birth occurs outside a hospital, institution, or facility, the Standard Certificate of Live Birth must be prepared and filed by one of the following –

9-003.03A The physician in attendance at or immediately after the birth;

9-003.03B The father, the mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred; or

9-003.03C Any other person in attendance at or immediately after the birth.

9-004. COMPLETION OF CERTIFICATE: All items must be completed on the certificate of live birth unless there is disclosure or a satisfactory accounting for any omission.

9-004.01 If the mother was married at the time of either conception or birth or at anytime between conception and birth, and paternity has not been determined otherwise by a court of competent jurisdiction, then –

9-004.01A The name of the mother's husband is entered on the certificate as the father of the child unless one of the following occurs.

9-004.01A1 The mother and the mother's husband execute affidavits attesting that the husband is not the father of the child, in which case information about the father is omitted from the certificate. The affidavits must be individually notarized. The surname of the child is determined as provided in 174 NAC 9-004.03.

9-004.01A2 The mother executes an affidavit attesting that the husband is not the father and that the putative father is the father, the putative father executes an affidavit attesting that he is the father, and the husband executes an affidavit attesting that he is not the father. In such event, the putative father is shown as the father on the certificate. Each signature on the affidavits must be individually notarized. The surname of the child is determined as provided in 174 NAC 9-004.03.

9-004.01B If a court of competent jurisdiction has determined that the mother's husband is not the father of the child, the name of the father is entered on the certificate in accordance with the finding of the court. The child's surname is determined as provided in 174 NAC 9-004.03.

9-004.02 If the mother was not married at conception or birth of the child, or at any time between conception and birth, then –

9-004.02A The name of the father is not entered on the certificate unless:

9-004.02A1 The mother and the person named as the father consent in writing to the father's name being placed on the certificate; or

9-004.02A2 Paternity of the child has been determined by a court of competent jurisdiction. If such a determination has been made, then the name of the father is entered in accordance with the order.

9-004.02B If the father is not named on the certificate, no other information about the father is entered thereon.

9-004.03 The child's surname is the parents' prerogative, except that the Department will not accept a birth certificate with a child's surname that implies any obscene or objectionable words or abbreviations.

9-004.03A Appeals from the refusal of the Department to accept a birth certificate for filing because of the child's surname must be in accordance with 184 NAC 1.

9-005 ADDITIONS OR CHANGES TO A CERTIFICATE AFTER FILING WITH THE DEPARTMENT

9-005.01 If the mother is married but her husband is allegedly not the father, and the Certificate has been filed without the information pertaining to the alleged father, no information relating to the alleged biological father can be added unless paternity of the child has been determined by a court of competent jurisdiction.

9-005.02 If the certificate has been filed without the information pertaining to the biological father and the mother is unmarried, such information concerning the father is added –

9-005.02A Upon receipt of written acknowledgement and consent of the father and of the mother on a form provided by the Department, copies of which are Attachments B and C, incorporated in these regulations by this reference; or

9-005.02B Upon receipt of a certified copy of a court order from a court of competent jurisdiction showing paternity has been established; and

9-005.02C Upon receipt of the written request of the parent, guardian, or agency having legal custody of the child.

9-005.03 At the time of adding the biological father's name to the certificate, the surname of the child is determined as provided in 174 NAC 9-004.03.

9-006 AMENDMENT OF ORIGINAL BIRTH CERTIFICATES: Certificates of birth are amended as provided in 174 NAC 10.

9-006.01 Amendment of obvious errors, transposition of letters in words of common knowledge or omissions on birth certificates may be made by the Department within the first year after the date of birth –

9-006.01A Upon its own observation; or

9-006.01B Upon query; or

9-006.01C Upon request of a person with a direct and tangible interest in the certificate.

9-006.01D A notation as to the source of the information, the date of the amendment and the initials of the person making the change is made on the reverse side of the certificate.

9-006.01E The certificate is not marked "Amended."

9-006.02 The certificate is marked "Amended" for all amendments made during the first year, except as otherwise provide in Neb. Rev. Stat. §§ 71-630, 71-635 to 71-644, or 174 NAC 9-006.01. Amendments must be supported by –

9-006.02A An "Application for Amendment" form provided by the Department, a copy of which is Attachment D, incorporated in these regulations by this reference, which must be supported by affidavit and must set forth the information needed to identify the certificate, and list the incorrect data on the record and the correct data as it should appear on the original record; and

9-006.02B One item of documentary evidence supporting the amendment .

9-006.03 Amendments to birth certificates made one year or more after the event must be supported by –

9-006.03A An Application for Amendment form setting forth the information needed to identify the certificate, listing the incorrect data on the record and the correct data as it should appear on the original record; and

9-006.03B Two or more items of documentary evidence which support the alleged facts and which were established at least five years prior to the date of application for amendment or within seven years of the date of the event.

9-006.04 Amendments of given names only on birth certificates are as follows –

9-006.04A Until the registrant's first birthday, given names may be changed upon written request of –

9-006.04A1 Both parents;

9-006.04A2 The mother in the case of a child born out of wedlock or the death or incapacity of the father;

9-006.04A3 The father in the case of death or incapacity of the mother; or

9-006.04A4 The guardian or agency having legal custody of the registrant in the case of the death or incapacity of both parents.

9-006.04B After the first birthday and until the seventh birthday, the given name may be changed upon written request as required in 174 NAC 9-006.04A and submission of one or more items of documentary evidence to support the change.

9-006.05 Birth certificates filed without given names and amended after the seventh birthday must be supported by –

9-006.05A An Application for Amendment form setting forth the information needed to identify the original record, listing the incorrect information on the record and the correct information as it should appear on the record.

9-006.05B One item of documentary evidence to substantiate the name being added.

9-006.06 Amendments to birth certificates to which a legal change of name is being made must be supported by –

9-006.06A The Application for Amendment form setting forth the information needed to identify the original record, listing the incorrect information on the record and the correct information as it should appear on the record.

9-006.06B A certified copy of the court order changing the name.

9-006.07 Fees: Filing fees as provided in Neb. Rev. Stat. § 71-634 are charged for amendments to each record, except for amendments made in accordance with 174 NAC 9-006.01. In addition, a fee for each certified copy of an amended record is charged in accordance with Neb. Rev. Stat. § 71-612.

9-007 REQUIREMENTS FOR REGISTRATION OF CERTIFICATES OF DELAYED BIRTH REGISTRATION: A notarized Application and Affidavit for Delayed Birth Certificate, in a form provided by the Department, a copy of which is Attachment E, incorporated in these regulations by this reference, may be filed with the Department for any person born in Nebraska whose birth is not registered within one year after the date of birth.

9-007.01 Applicant must pay the statutory file search fee prescribed in Neb. Rev. Stat. § 71-612 to determine that such birth is not recorded. No file search fee is charged if the birth occurred before 1905.

9-007.02 Applicant may present to the Department some written proof, on a form provided by the Department, entitled "Certificate of Search," a copy of which is Attachment F,

incorporated in these regulations by this reference, or in a signed letter from the Department, stating that applicant's birth is not registered.

9-008 DELAYED BIRTH CERTIFICATE--HOW ESTABLISHED

9-008.01 Applicant must be at least 18 years of age. If applicant is not yet 18 years of age, application may be made only by the applicant's mother, father, guardian, or attendant at birth.

9-008.02 The Application and Affidavit for a Delayed Birth Certificate must be accompanied by the application fee provided in Neb. Rev. Stat. § 71-617.15 for the filing of the Certificate of Delayed Birth Registration, a copy of which is Attachment G, incorporated in these regulations by this reference. The file search fee set forth in 174 NAC 9-007.01 is also charged, unless the birth occurred before 1905. In addition, a fee for each certified copy of the new birth record is charged in accordance with Neb. Rev. Stat. § 71-612.

9-008.03 Each application for establishing a delayed birth registration must be accompanied by three independent supporting documents. Only one of these documents may be an Affidavit of Personal Recollection, a copy of which is Attachment H, incorporated in these regulations by this reference, from a person at least five years older than applicant and having personal knowledge of the facts at the time of birth.

9-008.04 Any evidence used must relate to the date and place of birth and at least one item of documentary evidence must correctly establish parentage.

9-008.05 Independent supporting records must include original records or certified or notarized copies of –

9-008.05A A recorded certificate of baptism performed under age four.

9-008.05B Insurance policy application personal history sheet.

9-008.05C Federal census record.

9-008.05D School census record.

9-008.05E Family Bible record when proved beyond a reasonable doubt that the record was established before the child reached age four.

9-008.05F Other evidence on file in the Department taken from other registrations. These documents may be the registrant's marriage record, birth certificate of another family member, or marriage record of the registrant's parents.

9-008.05G A record at least five years old or established within seven years of the date of birth, such as a physician's certificate or an affidavit taken from the records of the physician, hospital, or clinic records.

9-008.05H An affidavit of personal recollection from a parent or longtime acquaintance. The affidavit must include the full name of the person whose birth is being registered, the date and place of birth, and the basis of the affiant's knowledge of these facts.

9-008.05I A printed notice of birth.

9-008.05J A record from a birthday or baby book.

9-008.05K A school record.

9-008.05L A religious record.

9-009 DELAYED BIRTH CERTIFICATE – REFUSAL TO FILE – DENIAL: The Department will not register and issue a delayed certificate of birth if –

9-009.01 The applicant has failed to submit the minimum documentation required for the delayed registration; or

9-009.02 The Department has reasonable cause to question the validity or adequacy of –

9-009.02A The applicant's sworn statement; or

9-009.02B The documentary evidence due to conflicting evidence submitted; and

9-009.02C The deficiencies are not corrected.

9-009.03 The Department will advise the applicant of its decision denying registration on a form a copy of which is Attachment I, incorporated in these regulations by this reference, and of his or her right to appeal to the Director. Then if the applicant is not satisfied with the decision of the Director, the Department will advise him or her of the right to appeal to the county court as provided in Neb. Rev. Stat. § 71-617.08. The Director will inform the applicant on Attachment I of his or her decision and applicant's right to appeal as provided in Neb. Rev. Stat. § 71-617.08.

9-010 DELAYED BIRTH CERTIFICATE – PROCEDURE FOR APPEAL: If a delayed birth certificate is denied by the Department and the Director, a petition signed and sworn to by petitioner may be filed with the county court of Lancaster County, county court of the petitioner's residence, or county court of the county in which the birth is claimed to have occurred. Petition must be made on a form prescribed and furnished by the Department, a copy of which is Attachment J, incorporated in these regulations by this reference, and must allege –

9-010.01 That the person for whom a delayed certificate of birth is being sought was born in this state.

9-010.02 That no certificate of birth of such person can be found in the files of the Department from the information given.

9-010.03 That diligent efforts by the petitioner have failed to obtain evidence as required by Neb. Rev. Stat. §§ 71-617.05 and 71-617.06 that is considered acceptable to the Department.

9-010.04 That the Department has refused to register a delayed certificate of birth.

9-010.05 Other allegations by the petitioner may be listed.

9-011 DELAYED BIRTH CERTIFICATE – PETITION – HEARING FINDINGS – COURT ORDER

9-011.01 The petition form must be accompanied by a statement from the Director explaining on Attachment I why a delayed certificate of birth was not issued and registered, and all documentary evidence which was submitted to the Department in support of such registration.

9-011.02 After the petition is filed with the court, a time and place for a hearing will be set and a notice of ten days will be given to the Department of such hearing. The Director or an authorized representative may appear and testify in the proceeding.

9-011.03 If the court finds from the evidence presented that the person for whom a delayed certificate of birth is sought was born in this state, it will make findings as to the date and place of birth, parentage, and other findings as the case may require and the court will issue an order to establish a certificate of birth on a form prescribed and furnished by the Department on Attachment G.

9-011.04 The order will include the birth data, a description of the evidence presented, and the date of the court's action and will be forwarded by the clerk of the court to the Department no later than the tenth day of the calendar month following the month in which it was entered.

9-011.05 The order will be registered by the Department and will constitute the certificate of birth. The Department will certify on a delayed registration of birth that no other record of the birth is on file with the Department.

9-012 DELAYED BIRTH CERTIFICATE – DISMISSAL OF APPLICATION – NEW APPLICATION - REQUIREMENTS

9-012.01 An application which has not been actively pursued by the applicant within one year after receipt of application by the Department will be dismissed.

9-012.02 If the application is dismissed, the application fee will be returned by the Department to the applicant.

9-012.03 Submission of a new application is required and must be accompanied by the filing fees as provided in 174 NAC 9-008.02.

TITLE 174 VITAL RECORDS

CHAPTER 10 METHOD OF AMENDING CERTIFICATES AND REPORTS

10-001 DEFINITIONS

Certificate means the record of a vital event. For purposes of these regulations, certificate includes an abstract of marriage as provided in Neb. Rev. Stat. § 71-601.01.

Department means the Department of Health and Human Services Finance and Support.

Original means a vital record generated from microfilm, imaging, electronic means, or any other medium as designated by the Department.

Report means any report filed with the Department, including but not limited to reports of adoption.

Reproduction means a typewritten, photographic, electronic, or other reproduction of a certificate or report of the Department, when verified and approved by the Department.

10-002 METHOD OF AMENDING CERTIFICATES OR REPORTS

10-002.01 An amendment to an original or reproduction of a certificate or report will be accomplished by completing the item in any case where the item was left blank on the certificate or by drawing a single line through the item to be amended and inserting the correct information immediately above or to the side of the item. The line drawn through the original entry will not obliterate such entry.

10-002.02 An amendment to an electronically generated certificate will be accomplished electronically by completing the item in any case where the item was left blank on the certificate or by replacing the initial information with the corrected information. The certificate will note the item number and item corrected in the bottom margin on the face of the record.

10-002.03 The Department will maintain a record which identifies the evidence upon which the amendment is based, the date of the amendment, and the identity of the person making the amendment.